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*Which Crimes Against Good Manners and Morality
Were the Inhabitants of Chukya Tried for in the 18th Century?*¹

Abstract

The aim of the article is to shed light on the phenomenon of sexual crime in rural areas of the former Ruthenian voivodeship in the 18th century. Many researchers in Poland and beyond have already delved into these issues, but the territories of the Ruthenian voivodeship have not been thoroughly examined in this regard. The core source base consists of materials found in 18th-century rural court books written in the village of Czukwi between 1715 and 1754. During the query, the author identified nine cases of accusations of sexual crimes, classified by contemporaries as offenses against good manners and religion. Descriptions most frequently pertain to adultery, carnal acts, and incest. Although according to the prevailing law in the examined areas, such crimes were punishable by death, rural courts did not impose such severe penalties; instead, punishments were milder, ranging from corporal punishment to various fines and penalties payable to secular and ecclesiastical authorities. Only in the case of the most serious offenses (involving individuals closely related or when adultery was linked to a more serious crime) were the accused referred to the urban justice system. Beyond punishing the offenders, the article also addresses the significant issue of children born from such relationships and their future protection by the court through orders for financial support and various contributions to the child's mother. Such penalties were primarily imposed in cases of adultery or incest. When forbidden relationships occurred

¹ This work is the result of research project no. UMO-2021/41/N/HS3/01459 funded by the National Science Centre under the Prelude 20 competition.

between free individuals, they were often compelled to enter into marital unions, thereby resolving the issue.

Keywords: modernity, sexuality, crime, sexual crime, 18th century, social history, history of crime



Chukva (Ukrainian: Чуква, Chukva) is a small village currently located in Ukraine in the Lviv Oblast. However, in the 18th century, it was located within the borders of the Ruthenian Voivodeship in the land of Przemyśl and was only eight kilometres away from Sambor. There were two parishes within its borders: Greek Catholic and Roman Catholic.²

This article aims to investigate the cases heard before the Chukva village court in the years 1715-1754. The area is of great interest to researchers because of the abundance of archival material, which is in a really good state of preservation. The originals are stored in the Central State Historical Archives of Ukraine in Lviv (CPAHU).³ Six books were preserved from the 18th century, four of which I had access to. In three of them, I found interesting cases from the perspective of this text. I obtained nine descriptions of the judgements issued. They concerned adultery (two cases), accusations of adultery (two), fornication (four) and incest (one). All these offences were included in the category of crimes against morality and established customs.⁴ According to Zbigniew Naworski, they can also be interpreted as acts against the sacrament of marriage or religion.⁵

Issues related to broadly understood sexuality have been of interest to researchers for many years. Tomasz Wiślicz⁶ makes great contributions in this field as he was one of the first to notice the potential of this type of research in rural areas. We

² B. Rozwadowski, "Czukiew," in *Słownik geograficzny Królestwa Polskiego i innych krajów słowiańskich*, Vol. 1, Warszawa 1880, p. 880.

³ Центральний державний історичний архів України, м. Львів [Central State Historical Archives of Ukraine in Lviv, subsequently: ЦДІАЛ], ф. 142, Громадський уряд с. Чукви [Local Government of Chukva], п. 1, спр. 7, 6, 3.

⁴ J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju i prawa polskiego*, Warszawa 1993, p. 264; *Historia prawa na ziemiach polskich. Zarys wykładu*, Vol. 1: *Polska przedrozbiorowa*, Toruń 1995, p. 127.

⁵ Z. Naworski, "Kryminalne sprawy małżeńskie w księgach sądowych dawnej Polski," in T. Dolata (ed.), *Regulacje prawne dotyczące małżeństwa w rozwoju historycznym*, Wrocław 2018, p. 81.

⁶ T. Wiślicz, *Upodobanie. Małżeństwo i związki nieformalne na wsi polskiej XVII-XVIII wieku. Wyobrażenia społeczne i jednostkowe doświadczenia*, Wrocław 2012.

should mention urban history researchers such as Andrzej Karpiński⁷ and Marcin Kamler as well.⁸ An analysis of these phenomena is also undertaken by legal historians – notably Marian Mikołajczyk,⁹ Wacław Uruszczak¹⁰ and the already cited Zbigniew Naworski. However, I believe that several issues require further analysis, and this is a field for researchers in the history of crime.

Most often, cases of this type were tried in rural areas before the special type of court, the so-called “sąd rugowy” [*court of expulsion* – literal translation; *translator’s note*]. The special judges, two residents chosen from among the community, were tasked with reporting crimes and misdemeanours committed by the villagers since the previous court met. These were elderly people who were respected in a given community. The court met at least twice a year (before Christmas and during Lent) outdoors and, in case of bad weather conditions, in the mayor’s house, in the vicarage or on the manor’s premises.¹¹ In his works, Groicki emphasised that their purpose was primarily to administer justice to people who, by committing a crime, violated a divine commandment or went against the laws of the Church.¹² However, those special judges were not the only ones who pointed out those guilty of committing acts against divine commandments. Every village resident was obliged to report any offences noticed, under the pain of punishment for failure to do so.¹³

For offences against religion or morality and good manners, in addition to penalties such as fines to the office, the village owner, the mayor the punishment of flogging, there were also ecclesiastical punishments – the serving of which allowed one to atone for the sin committed. Such penalties appeared in most cases of this type of crime. Due to the cooperation of secular and church authorities, so-called “Church penances” were the norm. Although the nature of the punishment was strictly ecclesiastical, its adjudication was the responsibility of secular authorities. Church penances are divided into two categories. The first is of a humiliating nature, aimed at humbling the condemned person (including lying prostrate during a church service, kneeling or sitting in jousts). The second imposed an obligation to provide material services to the church (tribute in wax, candles, fine). Depending on the crime

⁷ A. Karpiński, *Kobieta w mieście polskim w drugiej połowie XVI i w XVII wieku*, Warszawa 2022.

⁸ M. Kamler, *Złoczyńcy. Przestępczość w Koronie w drugiej połowie XVI i w pierwszej połowie XVII wieku (w świetle ksiąg sądowych miejskich)*, Warszawa 2010.

⁹ M. Mikołajczyk, *Proces kryminalny w miastach Małopolski XVI-XVIII wieku*, Katowice 2013.

¹⁰ W. Uruszczak (ed.), *Acta nigra maleficorum Wisniciae (1665-1785). Księga czarna złoczyńców sądu kryminalnego w Wiśniczu (1665-1785)*, Kraków 2010.

¹¹ W. Uruszczak, *Historia państwa i prawa polskiego*, Vol. 1: 966-1795, Warszawa 2015, pp. 278-279.

¹² B. Groicki, *Artykuły prawa majdeburskiego; Postępek sądów około karania na gardle; Ustawa płacej u sądów*, ed. and preface K. Korany, transl. from latin J. Sawicki, transc. and ed. K. Orłowska, Warszawa 1954.

¹³ S. Grodziski, *Z dziejów staropolskiej kultury prawnej*, Kraków 2004, p. 223.

committed, penance could be a main or additional punishment.¹⁴ Interestingly, once someone had done such penance, they could not be reproached for the offence they had committed as that was subject to punishment.

Another element underlining the nature of the crime committed was the numerous references to religion, God himself and the commandments in the very wording of the sentences pronounced. The following phrases were applied: "because not fearing the Lord God," "he transgressed the divine commandment," "he confessed to his evil deed, which he did not remember the commandment of the Lord God," and "for insulting the Lord God." These references are religious in nature and only emphasise the nature of the crime committed.¹⁵

Adultery and fornication

Adultery and carnal acts are the two most common crimes against religion and morals in rural court records. Adultery is considered as sexual relations between persons of the opposite sex, at least one of whom is married.¹⁶ However, carnal acts, also called fornication,¹⁷ were committed by unmarried people. These two types of relationships were most often revealed only when the woman became pregnant. According to Wiślicz, apart from the afore mentioned reason, most adultery cases came to light during marital quarrels. At that time, it was not about one-off situations, but long-term relationships that impacted the weakening of marital relations.¹⁸ Although we should separate these phenomena, corporal sin is often referred to as adultery in court books.¹⁹ It is, therefore, worth analysing the categories in which the court considered this crime.

According to the Magdeburg Law in force in the former Ruthenian Voivodeship, the analysed crimes were punishable by death. However, in practice, it was performed extremely rarely. For such a sentence to be imposed, the offender had to have committed a more serious offence.²⁰ Cases of this type were then referred to the city

¹⁴ J. Dicker, *Pokuta kościelna w prawie wiejskim polskim od XVI do XVIII wieku*, Lwów 1925, *Pamiętnik Historyczno-Prawny*, Vol. 1, no. 1, pp. 5, 10.

¹⁵ ЦДІАЛ, ф. 142, п. 1, сир. 7, арк. 92, 329, 360, 403.

¹⁶ R. Łaszewski, „Przestępstwa przeciwko religii i dobremu obyczajom w prawie wiejskim Rzeczypospolitej szlacheckiej”, in E. Borkowska-Bagińska, H. Olszewski (eds), *Historia prawa, historia kultury. Liber memorialis Vitoldo Maisel dedicatus*, Poznań 1994, p. 188.

¹⁷ M. Kamler, *Złoczyńcy...*, p. 284.

¹⁸ T. Wiślicz, *Upodobanie...*, p. 210.

¹⁹ R. Łaszewski, *Wiejskie prawo karne w Polsce XVII i XVIII wieku*, Toruń 1988, *Rozprawy. Uniwersytet Mikołaja Kopernika*, p. 125.

²⁰ Archiwum Państwowe w Rzeszowie, zesp. 59: Akta Miasta Rzeszowa, sygn. 59/1/0/3/27. The case concerns a case of murder by poisoning the husband of the accused woman in the case by her lover.

justice system. Canon law condemned the imposition of the death penalty for adultery and suggested that the guilty person (regardless of gender) undergo long-term church penance – up to seven years – behind the monastery's walls. However, such punishments were rare and concerned people from higher social classes. Much more often, it was decided to impose the classic church penances as known to us.²¹

Two cases of adultery were found in the analysed court books. The interrogation notes are much more extensive as we have the opportunity to hear the testimonies of the accused themselves, as well as witnesses. Even where the defendants committed such acts was important for the court. In the first case, the woman was publicly flogged with 50 lashes in order to force further confessions. However, the punishment had no effect. The woman did not change her testimony and continued to insist that she had been encouraged by the man to maintain the relationship. In this case, both parties (the single woman and the married man) were punished. Both received an ecclesiastical penance (lying prostrate in front of the main altar for three consecutive weeks during Sunday service) and a secular punishment of 150 lashes in the form of a whipping; the punishment was public. They were to remain in prison²² until the execution of the above-mentioned sentences was completed.

The situation of people accused of fornication was slightly different. It was still an "offence to God," but it was punished in a much lighter way. Descriptions of the cases are quite sparse, but there are testimonies of the accused and their closest relatives. The court could also punish them, turning from witnesses in the case to defendants. They were punished for not reporting the relationship, which was prohibited by law and the Church, or for simply ignoring it. We learn most about this subject from the content of judgements recorded in rural books. Fines for the office or court and church penances – especially material ones – were imposed both on the parents and the landlords the young people served. I have not recorded any cases of corporal punishment being administered to representatives of this group.

Because parents, just as the father pretends that he did not know about his son Chryń Fetko Pak's wicked deeds, so Pakowa also pretends that she did not know about it either. For this reason, we hereby issue such a judgment. First, Fetko Pak paid the office six fines for the deeds of his son and insulting God and two pounds of wax for the Church and four pounds of wax to the Upper Orthodox Church.²³

Originally: Ponieważ, że rodzice jak ojciec o synie swym Chryniu Fetko Pak udaje, że o jego złych uczynkach nie wiedział, tak Pakowa także udaje że i ja i tym nie wiedziała. Z tej przyczyny my sądem naszym niniejszym takowy dekret ferujemy. Naprzód Fetko Pak za te uczynki syna swego i obrazę Pana B. oddał na urząd grzywnien sześć. Do kościoła wosku funtów dwa, do cerkwi Górnej także wosku funtów cztery.

²¹ R. Krajewski, "Karalność cudzołóstwa na przestrzeni wieków," in A. Wedeł-Domańska, A. Purat (eds), *Selected Problems of Punishment and Criminality*, Bydgoszcz 2016, p. 86.

²² ЦДІАЛ, ф. 142, п. 1, спп. 7, арк. 91-92.

²³ ЦДІАЛ, ф. 142, п. 1, спп. 7, арк. 403.

Błażej Sopa, as the father of his daughter, for bringing up his daughter in such a way and because it happened in his house he is to pay a pound of wax to the Church in Chukva and five fines to the our office in Chukva.²⁴

Originally: Błażej Sopa, jako ociec córki swojej za takie ćwiczenie córki swojej i że się to w domu jego stało i czyniło, za to aby oddał na przód do kościoła czukiewskiego wosku funt, na urząd nasz czukiewski grzywien pięć.

The main defendants were punished primarily by flogging²⁵ or church penances. In the descriptions of the trials, apart from the obvious issue (i.e., the verdict), there are also testimonies of the accused themselves, in which they tried to blame their co-accused of starting the forbidden relationship. This was explained by constant solicitation and encouragement until the other party gave in. Perhaps the intention was to shift the blame away or minimise it – which could perhaps result in a more lenient sentence.

Wojciech, Krzysztof Moskał's son, began to court me, he was there for two Masses and came to me as long as he was honest, and then he began to harass me and persuade me to commit carnal sin. He cursed, "I will not betray you, but I will take you." This went on for a long time. Finally he seduced me and did what he wanted with me in my house.²⁶

Originally: A ten Wojciech syn Krzysztofa Moskala, jak się wziął do mnie zalecać, tam msze dwie będący chodził a chodził do mnie, póki pocziwie to pocziwie, adali jak mnie wziął napastować o zły uczynek. Przeklinając, że ja Ciebie nie zdradzę, ale Cię wezmę, tak długo tego było, aż mnie uwiódł i co chciał to ze mną robił w domu moim.

Allegations of adultery

Although the penalties for giving false testimony or slander were severe, such cases often appeared in court records. In Chukva itself, I found two instances during the examined period. In the first one, Paweł Hryjcyk was accused (by Piotr Hucyk) of secret meetings with the daughter of Franciszek Macowicz. Macowicz defended the accused, saying that the latter did not come to the courtship because they were celebrating mid-summer. No one confirmed the plaintiff's version of events, so the man was punished. He had to apologise to the woman's father and Paweł Hryjcyk in their homes, pay ten fines to the mayor and donate three pounds of wax to the Church.

²⁴ ЦДДАЛ, ф. 142, п. 1, спп. 7, ark. 329.

²⁵ ЦДДАЛ, ф. 142, п. 1, спп. 7, ark. 92, 268, 329, 360, 403; п. 1, спп. 3, ark. 273.

²⁶ ЦДДАЛ, ф. 142, п. 1, спп. 7, ark. 267.

Because Piotr Hucyk alias Hryjcyk slandered the house of Franciszek Macowicz and his daughter with unvirtuous words, to which he admitted during the interrogation, he could not prove it in any way. [...] And for Piotr Hucyk alias Hryjcyk to apologize in front of the witnesses Franciszek Macowicz and Paweł Hryjcyk in their homes. He is also to pay ten fines to the mayor's office and donate three pounds of wax to the Lower Orthodox Church.²⁷

Originally: Ponieważ Piotr Hucyk alias Hryjcyk szkalował dom Franciszka Macowicza i córkę jego, nie cnotliwemi słowami, które słowa są w inkwizycji wyrażone, a tych słów i zadania niecnotliwego żadnym sposobem nie dowiódł ani dokazał ich przyczyny [...] I aby Piotr Hucyk alias Hryjcyk godnymi ludźmi w domu przeprosił Franciszka Macowicza tak też i Pawła Hryjcyka także w domu także ludźmi wiarygodnymi i na urząd Pana Wójta naszego aby dał Piotr Hucyk grzywien dziesięć i do Cerkwi Boski Dolni wosku funtów trzy.

In the second case, the accused was a woman. Two men testified that they saw her with the carpenter's son – they allegedly spotted them when they were returning from their evening serf work. They also saw a man in the woman's house while her husband was away. Due to the lack of sufficient evidence of adultery by Piotr Kunasz's wife, the case was closed, and no one was punished. The woman's husband also did not seek justice for possible slander in court. As you can see, these types of cases were very diverse, and their solutions were not obvious.²⁸

Incest

One of the crimes tried in Chukva was incest. It is sexual intercourse between close relatives, as defined by legal norms.²⁹ Prohibitions regarding this type of relationship can be found in the Old Testament. The Books of Moses explicitly mention family members with whom sexual intercourse was forbidden – daughter, sister and mother (Leviticus 20:17),³⁰ but also sister-in-law. The penalty for such a relationship was to be infertility (Leviticus 20:21).³¹ Incest was punishable by death by stoning, burning or hanging on a tree.³² In the Middle Ages, incest was considered a mortal

²⁷ ЦДІАЛ, ф. 142, п. 1, сир. 7, арк. 196-197.

²⁸ ЦДІАЛ, ф. 142, п. 1, сир. 6, арк. 241-245.

²⁹ K. Imieliński, *Zboczenia płciowe. Dynamiczna teoria zboczeń płciowych*, Warszawa 1970, p. 23.

³⁰ A. Jankowski (ed.), *Pismo Święte Starego i Nowego Testamentu w przekładzie z języków oryginalnych*, Poznań–Warszawa 1990, p. 127.

³¹ *Ibidem*, p. 127.

³² J. Warylewski, *Przestępstwa seksualne*, Gdańsk 2001, p. 227.

sin, and people guilty of this act were strictly prohibited from remarrying. The mitigating factor could have been not knowing the degree of kinship, and the accused only had to complete the prescribed penance. There were also attempts to control the people with the help of the clergy and lay members, who were to report both detected cases of incestuous relationships and also supervise the fulfilment of the penance marked.³³

Only in the 15th century did secular law become concerned in the question of incest. The source of law that was in force in the studied area was the *Constitutio Criminalis Carolina* of 1532, which provided for the death penalty for this crime.³⁴ In the translations of German law prepared by Groicki, we find the following provision:

Wherever a person has been found guilty of having committed a dishonourable act with his stepdaughter, stepmother or a stepsister, or with any relatives of his family, he is to be punished according to the advice of men learned in law and experts, according to the long-described custom in imperial law.³⁵

Originally: Gdzieby na kogo doświadczone, iż z pasierbicą swoją, z macochą abo z jątrwią uczynek niepoczciwy miał, abo też z jakimi w rodzie bliższymi białogłowami, takowy za radą ludzi uczonych w prawie a biegłych ma według z dawna opisanego obyczaju w cesarskim prawie karan być.

In the Commonwealth of Poland, the legal system, based on German (Magdeburg) law, was applied rigorously in various cities, especially in cases involving closely related individuals. However, in rural areas, the courts didn't issue death sentences at all. Instead, the most severe cases were referred to the city's justice system. Penalties for such crimes varied and included the previously mentioned death penalty, corporal punishment, fines and religious penance.

Only one case of incest, tried before a local court, appeared in the Chukva court records. The case concerned the miller Józef Sławecki, who was in a forbidden relationship with his female cousin – who served at the mill during the boy's father's lifetime. When the latter died, Józef decided that Agnieszka (his cousin) would stay with him, as she was 'destined to suffer hunger' at her mother's house. During his testimony, the man admitted to this relationship, emphasising that it took place not in the field, but at home. The imposed sentence was severe. Both of them were to lie prostrate in front of the main altar during the service for four consecutive weeks. Agnieszka was to receive 100 lashes, and Józef was given an additional church penance of 10 pounds of wax for the church. Additionally, he had to pay 20 fines to the authorities and was to be lashed 100 times. While reading the verdict, we learn that a child was born as a result of their relationship. Józef was obliged to take care of

³³ A. Pieniądz, „Kazirodztwo w społeczeństwie wczesnego średniowiecza,” *Przegląd Historyczny*, Vol. 98 (2007), pp. 353, 355-356.

³⁴ J. Warylewski, *Przestępstwa...*, p. 229.

³⁵ B. Groicki, *Artykuły prawa majdeburskiego...*, p. 153.

it. He was to give the child's mother a cow and a quantity of grain determined by the court. The case was most likely not sent back to the city because, according to the local court, the couple was not closely related enough to face the death penalty for this act.

But what about the child?

Forbidden relationships such as adultery, carnal acts or incest very often came to light only when a child was born as a result of them, and it was no different in Chukva. Children are mentioned in as many as five cases. The court never referred to them in an offensive manner, and no penalties were imposed on them.³⁶ They were mentioned when announcing the sentences and when the court obliged their biological fathers to support them. The most expensive donation was a cow; other donations included grain or financial resources. Three such verdicts have been preserved in Chukva. Two of them concerned the crime of adultery, and one of incest.

To raise the child, Józef is to give Katarzyna 6 zlotys and 4 half-measures of rye.³⁷

Originally: Na wychowanie dziecięcia Józef ma dać Katarzynie złotych 6, żyta półmiarków 4.

The same Jan Wac should give grain to feed the child, two half-measures of rye, half-measures of barley, two zlotys for Barbara's headscarf, fifteen groszy for a caul.³⁸

Originally: Tenże Jan Wac, powinien będzie dać na wyżywienie dziecięcia zboża, żyta półmiarków dwa, jęczmienia półmiarek, złotych 2 Barbarze na rąbek, na czepiec groszy piętnaście.

This obligation could be removed from the man if he married the child's mother. In fact, in two cases, the court waived the penalty in favour of forcing young people to marry – of course, only in the case of single people committing fornication (relations between single people).

³⁶ A. Komonicki, *Chronografia albo dziejopis Żywiecki*, eds S. Grodziski, I. Dwornicka, Żywiec 1987, p. 565. In 1727, a father and daughter were accused of forbidden relations, as a result of which a child was born. The couple was executed, and the child shared their fate. First, the veins in both its hands were cut and they were immersed in hot water. When this did not bring the expected results, its throat was cut.

³⁷ ЦДІАЛ, ф. 142, п. 1, сир. 3, ark. 272.

³⁸ ЦДІАЛ, ф. 142, п. 1, сир. 7, ark. 92.

It was also natural to protect pregnant women who gave birth or were raising small children. Corporal punishment could not be administered at that time; it had to wait until childbirth. This did not mean, however, that the case was forgotten; it was brought back to them during subsequent court hearings. The bailiffs gave Dorota only 100 lashes with rods for her carnal deed with a soldier, described as a "light" punishment as the woman was left alone with a young child. However, this was where the gentle treatment ended and Dorota was to leave the village with her child within three days. Otherwise, she was to receive 300 plagues. The penalty was often expulsion or banishment 'wyświecenie' from the village for adultery or a carnal act in the countryside. In the first case, the woman was given time to leave the village peacefully. Ordination, 'wyświecenie,' however, public punishment. Officials and all inhabitants of the village³⁹ took part in it. Otherwise, the punishment was postponed until the birth of the child.

[A]nd his daughter Agnieszka was to be punished with fifty rods for such a trespass of hers, shall suffer fifty stripes with rods; but these stripes shall be until after the birth of the child.⁴⁰

Originally: Córka zaś jego Agnieszka za taki występki jej aby odniosła plag pięćdziesiąt różgami, ale te plagi mają być aż po porodzeniu dziecięcia.

Summary

Only a small portion of the problem in the old Ruthenian Voivodeship, which has not yet been adequately investigated, is represented by the phenomena of sexual crimes in Chukva. After the Habsburgs invaded these regions in 1772, a number of changes relating to the installation of new administration or law (particularly criminal code) occurred there. It was also a very ethnically and culturally diverse place. Chukva is just one of the villages in this Voivodeship. I would like to emphasise that the article is of a contributing nature. Methodical research should be conducted for other cities and villages to better understand the phenomena of sexual crime, their scope, intensity, and how they are perceived by the local community from the point of view of court hearings, which is what I will try to do while continuing my research for the grant and my doctoral dissertation.

Translated by ILS Tłumaczenia



³⁹ R. Krajewski, „Karalność cudzołóstwa...,” p. 88.

⁴⁰ ЦДДАЛ, ф. 142, п. 7, ark. 325.

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